



**APPENDIX.**

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**SYNOPSIS OF ILLINOIS LOCAL IMPROVEMENTS  
ACT.**

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The Illinois statute concerning local improvements, known as the Act of June 14, 1897, was approved that date and has been in force since July 1, 1897. The statute has been amended from time to time and was codified as a part of the Revised Cities and Villages Act of 1941 (Chapter 24, *Illinois Revised Statutes*, 1941, Sections 84-1 to 84-99). The pertinent provisions in the statute in force at the time of the issuance of the interim bonds held by plaintiff are found in Chapter 24, *Illinois Revised Statutes*, 1923, Article IX, Sections 1-99, paragraphs 122-232. With the exception of Sections 84 and 90, which are set forth below in full, the provisions of the Act may be paraphrased as follows:

SEC. 4, par. 125. Cities and villages are empowered to make local improvements by special assessment of contiguous property or by general taxation.

SEC. 5, par. 126. No ordinance for a local improvement shall be considered by the City Council until it is recommended by the Board of Local Improvements.

SEC. 6, par. 127. The constitution of the Board of Local Improvements depends upon the size of the city or village.

SEC. 7, par. 129. Before a local improvement may be undertaken, a proceeding is started before the Board of Local Improvements either by the Board itself or by an outside agency. A hearing is held after due notice to all interested parties. There is an estimate of total cost and of the amount charged to the public generally.

SEC. 8, par. 130. After hearing, if the project is approved by the Board, an ordinance is prepared and submitted to the City Council.

SEC. 9, par. 131. With the ordinance there must be presented to the City Council a recommendation by the Board which shall be prima facie evidence that all conditions have been complied with.

SEC. 10, par. 132. An estimate of the cost is filed with the ordinance and recommendation.

SEC. 11, par. 133. The ordinance is published under certain conditions.

SECS. 36, 37, pars. 161, 162. Upon adoption of the ordinance, the officers specified therein must file a petition in a court of record in the county where the proposed improvement lies.\* With the petition is the ordinance, the recommendation of the Board of Local Improvements, the estimate of costs, etc.

SECS. 38-41, pars. 163-166. If the project is to be paid for by special assessment and the cost apportioned as between the property to be assessed and the public generally, the assessment roll giving the details thereof shall be filed and due notice given.

SEC. 42, par. 167. The assessments may be divided into installments bearing interest and bonds issued in anticipation of the collection of such installments.

SECS. 46-49, pars. 172-175. Any person interested in any real estate assessed may object. The court reviews the assessment roll and conducts a hearing of objections. There may be a trial by jury.

SEC. 51, par. 177. The trial before the court takes place as quickly as possible and is given precedence over all other matters.

SEC. 52, par. 178. And the court is authorized to modify, alter, or confirm the assessment and make all orders that may be necessary.

SECS. 55, 56, pars. 181, 182. After the hearing, the court enters its order of confirmation of the assess-

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\* In the case at bar the proceeding was filed in the County Court of Lake County where it is still pending.

ment. Such judgment is final and constitutes a lien on the several properties, and is not appealable. The municipality may sell the lien and the purchaser may realize upon it.

SECS. 61, 62, 63, pars. 187-190. The assessment then becomes due.

SECS. 73, 74, pars. 201, 202. Bids are taken for the contract and the contract is let. It is provided that no person taking a contract may look to the city except upon the collection of the special assessment provided for, even though the special assessment cannot be collected.

SECS. 75, 76, pars. 203, 204. The contract is let within ninety days after the term of court to which the judgment of confirmation was entered. Due notice must be given as provided in the statute.

SECS. 76a-79, pars. 205-209. The successful bidder must furnish a bond to the extent of one-third of the bid. The bond provides for the faithful performance of the work according to the plans and specifications, and that the contractor will promptly pay all debts incurred by the contractor in the prosecution of the work, including those for labor and material. Suit may be brought on the bond in case of default to pay those debts in the name of the City, or by any party interested. The Board of Local Improvements then considers the contract and after hearing, awards it to the successful bidder.

SEC. 82, par. 212. In the event the contractor does not complete the job, the contract may be relet by the Board of Local Improvements.

SEC. 83, par. 213. The Board of Local Improvements supervises the execution of the work, and it is provided the work must be done under the direction and to the satisfaction of the Board. All contracts must contain a provision to that effect; and in no case, except as otherwise provided in the ordinance or the judgment of the court, may the Board or municipality or any officer thereof be liable for any portion of the expenses or any delinquency of persons or property

assessed. It is provided that the acceptance by the Board of any improvement may be conclusive in the proceeding to make said assessment and in all proceedings to collect it or the installments, that the work has been performed substantially in accord with the ordinance. But if any property owner is injured, he may recover the amount in an action against the municipality making the improvement.

SEC. 84, par. 214. Within thirty (30) days after the final completion and acceptance of the work, as hereinbefore provided, the board of local improvements shall cause the cost thereof, including the cost of engineering services, to be certified in writing to the court in which said assessment was confirmed, together with an amount estimated by the board to be required to pay the accruing interest on bonds or vouchers issued to anticipate collection and thereupon, if the total amount assessed for said improvement upon the public and private property exceeds the costs of the same, all of said excess, excepting the amount required to pay such interest as herein provided for, shall be abated and the judgment reduced proportionately to the public and private property owners and shall be credited pro rata upon the respective assessments for said improvements under the direction of the court, and, in case the assessment is collectible in installments, such reduction shall be made so that all installments shall be equal in amount, except that all fractional amounts shall be added to the first installment so as to leave the remaining installments in the aggregate equal in amount and each a multiple of one hundred dollars (\$100). If prior to the entry of the order abating and reducing said assessment the same shall have been certified for collection pursuant to the provisions of section 61 of this Act as herein amended, and any of the installments of such assessments so certified for collection have become due and payable, the reduction and abatement above referred to shall be made pro rata upon the other installments; the intent and meaning hereof being that no property owner shall be required to pay to the collector a greater amount than his proportionate share of the

cost of said work and of the interest that may accrue thereon. In every assessment proceeding in which the assessment shall be divided into installments it shall also be the duty of the board of local improvements to state in said certificate whether or not the said improvement conforms substantially to the requirements of the original ordinance for the construction of the improvement, and to make an application to said court to consider and determine whether or not the facts stated in said certificate are true; and thereupon the court shall, upon such application, fix a time and place for hearing upon the said petition, and shall enter the same of record, such time to be not less than fifteen (15) days after the filing of such certificate and application. Public notice shall be given of the time and place fixed for such hearing by posting and publishing in a newspaper, in the same manner and for the same period as provided in this Act for publishing notice of application for the confirmation of the original assessment, the posting and publication of such notice to be not less than fifteen (15) days before the day fixed by such order for such hearing. At the time and place fixed by such notice, or at any time thereafter, the court shall proceed to hear said application and any objections which may be filed thereto within the time fixed in such order, and upon such hearing the said certificate of the board of local improvements shall be prima facie evidence that the matters and things stated are true, but if any part thereof are controverted by objections duly filed upon such petition, the court shall hear and determine the same in a summary manner and shall enter an order according to the fact. Such order of the court shall be conclusive upon all the parties and no appeal therefrom, or writ of error thereto, shall be allowed to review or reverse the same. If upon such hearing the court shall find against the allegations of said certificate, it shall enter an order accordingly, but it shall then be the duty of the said board of local improvements to procure the completion of the said improvement in substantial accordance with the said ordinance, and said board may, from time to time, file additional

or supplemental applications or petitions in respect thereto, until the court shall be eventually satisfied that the allegations of such certificates or petitions are true, and that said improvement is constructed in substantial accordance with the said ordinance. If before the entry of such order upon such certificate there shall have been issued to the contractor in the progress of any such work, any bonds to apply upon the contract price thereof, said contractor or the then owner or holder of such bonds, shall be entitled to receive in lieu thereof new bonds of equivalent amount, dated and issued after the entry of such order. Nothing in this section contained shall be construed to apply or shall apply to any proceedings under sections 57 and 58 of this Act or either of them, for the confirmation of new assessments, levied to pay for the cost of work already done. (As amended by Act approved June 27, 1913. In force July 1, 1913, L. 1913, p. 165.)

SEC. 85, par. 215. During the progress of the work, the Board of Local Improvements has the duty of inspecting it to see that it complies with the ordinance and the contract.

SEC. 86, par. 216. Bonds may be issued to anticipate the collection of the second and succeeding installments provided for by the ordinance.

SECS. 87, 88, pars. 217-218. The improvement may be paid for by bonds which in turn are to be paid out of the special assessment. Bonds can only be issued to the contractor at par with accrued interest.

SEC. 90, par. 222. No person or persons accepting the vouchers or bonds as provided herein shall have any claim or lien upon the city, town or village in any event for the payment of such vouchers or bonds or the interest thereon, except from the collections of the assessment against which said vouchers or bonds are issued, but the municipality shall not, nevertheless, be in any way liable to the holders of said vouchers or bonds in case of failure to collect the same, but shall, with all reasonable diligence, so far as it can legally do so, cause a valid special assessment or assessments, special tax or taxes, as the case may be, to be levied

and collected, to pay said bonds and vouchers, until all bonds and vouchers shall be fully paid. Any holder of vouchers or bonds, or their assigns, shall be entitled to summary relief by way of mandamus or injunction to enforce the provisions hereof.\* (As amended by L. 1901, p. 101, approved and in force May 9.)

SEC. 91, par. 223. It is further provided that from time to time as the work progresses, payments may be made to the contractor either in money, vouchers or bonds to apply upon the contract price.

SECS. 95, 96, pars. 227-228. Appeals and writs of error are provided for to the Supreme Court of Illinois.

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\* By the 1941 revision, the word "hereof" was taken out and the words "of this section" were substituted.